

REMARKS

Claims 1-4, 11-19, 21, 25, and 26 are all the claims pending in the application. By this amendment, claims 5-10, 20, and 22-24 have been canceled.

Foreign Priority

The Examiner has not acknowledged Applicant's claim to foreign priority and has not indicated receipt of the certified copy of the Priority Document in the parent application. The priority document should have been forwarded by the International Bureau in parent application no. 09/403,196. Applicant respectfully requests the Examiner to inform the Applicant if, for some reason, the priority document has not been properly forwarded by the International Bureau.

Claim Objections

Claims 9, 13-16, 23 and 24 are objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

The cancellation of dependent claims 9, 23, and 24 has rendered the objections to these claims moot.

Applicant has amended dependent claims 13-16 so that it is clear that these claims *do further limit* the claims from which they depend. These amendments do not change the intended scope of subject matter claimed.

Claim Rejection Under 35 U.S.C. § 102 and 103

Claims 1-5, 7, 9 and 11-26 are rejected under 35 U.S.C. § 102(e) as being anticipated by Balch et al. (US 6,479,301). Claims 6, 8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Balch.

Independent claim 5 and its dependent claims 6 - 10, 20, and 22 - 24 have been canceled, rendering these rejections of these claims moot.

Independent Claim 1

Applicant respectfully traverses the rejection of independent claim 1 at least because Balch does not disclose all of the recitations of this claim. For example, Balch does not disclose the claimed apparatus for analyzing at least one sample in an array of samples, including a chemical dispensing control unit controls the dispensing device, which applies a reagent to the at least one sample *according to the position of the at least one sample relative to the other samples in the array, wherein the position of the at least one sample is determined by an image recorder.*

Balch discloses devices for preparing a reaction substrate for use as an assay device, and methods of using these devices. The devices prepare reaction substrates including arrays of biosites bound to reaction substrates. The devices have a plurality of bundled capillary tubes that convey capture probes from a storage area for eventual deposition onto a biosite on a reaction substrate.

Although Balch discloses a proximal CCD-based imager, the proximal CCD-based imager is only used for acquisition and displaying of the hybridization test results¹ and *is not used for determining positions of the samples.* Specifically, in Balch, the biosite deposition for

¹ See Balch at 6:35-41.

constructing microarrays is carried out by ink-jet printing or capillary deposition. In ink-jet printing, individual ink-jet devices are integrated in a modular fashion to enable the printing of multiple fluids. L banks of modular ink-jet devices containing M depositors per module are assembled in a staggered fashion to print L x M different biosites on the bottom surface of the reaction chambers. The reaction vessel is moved by a precision motor-controlled stage underneath the ink-jet devices.² In capillary deposition, upon contact with the reaction substrate, the capillary tubes simultaneously deliver small volumes of the biosite solutions at precise locations controlled by the spatial arrangement of the bundled capillaries.³

However, Balch does not teach usage of the proximal CCD-based imager for determining positions of the ink-jet devices, the capillary tubes, or the reaction vessel.

Therefore, for the reasons discussed above, Applicant respectfully requests the Examiner to withdraw the rejection of independent claim 1.

Dependent Claims

Applicant respectfully requests the Examiner to withdraw the rejection of dependent claims 2-4, 11-19, 21, 25, and 26 at least because of their dependency from independent claim 1.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

² See Balch at 11:42-12:21 & FIG. 4.

³ See Balch at 12:22-39.

AMENDMENT UNDER 37 C.F.R. § 1.111
Application No.: 10/781,333

Attorney Docket No.: Q107293

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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